

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Michael J. Ferola, #291941,)	Civil Action No.: 9:13-cv-02399-RBH
)	
Plaintiff,)	
)	
v.)	ORDER
)	
S.C. Attorney General, S.C.)	
Department of Corrections, Willie)	
Eagleton, Ann Hallman, Ms. A.)	
Graves, Felicia McQueen, Captain)	
Rogers, Lt. Brayboy, Lt. Powell, Lt.)	
Wheeler and Corporal Conyers,)	
)	
Defendants.)	
)	

Plaintiff Michael J. Ferola, a state prisoner proceeding pro se, filed this action, alleging claims only under South Carolina state tort law. Defendants removed the action to this Court on their belief that Plaintiff was alleging claims pursuant to 42 U.S.C. § 1983; however, Plaintiff objected to the removal. The matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Bristow Marchant, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina. The Magistrate Judge recommends that the Court grant Plaintiff's request to remand the action and remand the action to the South Carolina Court of Common Pleas for disposition.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The Court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the

recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

Neither party has filed objections to the Report and Recommendation. In fact, Defendants filed a response indicating that “they have no objections.” ECF No. 33. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this Court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). The Court reviews only for clear error in the absence of an objection. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation’ ”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the record in this case, the Court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference. Therefore, it is

ORDERED that Plaintiff’s request to remand be **GRANTED** and that this action be **REMANDED** to the Court of Common Pleas for Richland County, South Carolina. A certified copy of this order shall be mailed by the Clerk of this Court to the Clerk of Court for the Court of Common Pleas for Richland County, South Carolina.

IT IS SO ORDERED.

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge

Florence, South Carolina
November 13, 2013